

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08cv29-3-V

ALBERT ESPOSITO, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court on Petitioner’s “Motion to Strike Petitioner’s Pending Response to Government’s Motion for Summary Judgment and Combined Motion to File Out of time Response to Government’s Motion for Summary Judgment” (Doc. No. 21.)

In his motion, Petitioner acknowledges that his reply to the Government’s Motion for Summary Judgment was filed beyond the thirty day time period imposed by this Court and asks that the Court strike his untimely response and grant him permission to file a response out of time. Petitioner’s motion is denied as moot. However, the Court will allow Petitioner’s untimely response to the Government’s Motion for Summary Judgment filed in this Court on October 6, 2008 (Doc. No. 20) to serve as a timely response. No further filing is necessary by Petitioner.

**IT IS HEREBY ORDERED that** Petitioner’s “Motion to Strike Petitioner’s Pending Response top Government’s Motion for Summary Judgment And Combined Motion to File Out of Time Response to Government’s Motion for Summary Judgment” (Doc. No. 21) is DENIED

as moot. Petitioner's previously filed response to the Government's Motion for Summary Judgment filed on October 6, 2008, will be considered by this court as a timely response.

**SO ORDERED.**

Signed: October 16, 2008

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
United States District Judge



**SO ORDERED.**